

310559

Kusano, Ken LT

From: Levenshus, Jonathan [Jonathan.Levenshus@mail.house.gov]
Sent: Friday, December 17, 2004 2:01 PM
To: Kusano, Ken LT; ogginsc@slc.ca.gov
Subject: Rep. Capps - Cabrillo Port DEIS Request
Attachments: Coast Guard STC letter.pdf

Lt. Kusano and Mr. Oggins -

Please find the attached letter from Congresswoman Capps supporting the Statewide LNG Environmental Stakeholder Working Group's request for a suspension of the timeline under the Deepwater Port Act for the Cabrillo Port Liquefied Natural Gas (LNG) project.

Should you have any quesitons, please contact me at 202-225-3601.

Thank you and have a nice weekend.

- Jonathan

<<Coast Guard STC letter.pdf>>

Jonathan Levenshus
Legislative Assistant
The Honorable Lois Capps (CA-23)
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202-225-3601 (Phone)
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Congress of the United States

House of Representatives

December 17, 2004

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COMMITTEE ON
ENERGY AND COMMERCE
COMMITTEE ON THE BUDGET

Commandant Thomas H. Collins
U.S. Coast Guard
2100 Second Street, S.W.
Washington, D.C. 20593

Dear Commandant Collins:

I am writing in strong support of the Statewide LNG Environmental Stakeholder Working Group's request for a suspension of the timeline under the Deepwater Port Act for the Cabrillo Port Liquefied Natural Gas (LNG) project.

The Draft Environmental Impact Statement (DEIS) fails to include a thorough examination and analysis of the potential impacts that may result from the Cabrillo Port LNG project. I share the concerns raised by the Statewide LNG Environmental Stakeholder Working Group and many of my constituents, including: safety risks; air, water and noise pollution; impacts to coastal wetlands and marine resources; marine water quality impacts from transportation; effects on commercial and recreational fishing; adverse impacts on visual and recreational resources; vessel traffic safety concerns; and impacts from on-shore production and support infrastructure, among others.

Additionally, I am disappointed that the DEIS fails to consider alternatives to the project, such as conservation, efficiency, and renewable sources of energy. The report also fails to consider the full range of impacts from the project that will result from the extraction, production, and transportation of natural gas.

As you know, the Cabrillo Port LNG project and its DEIS include very serious and complex technical issues. The DEIS is the first environmental review for an offshore LNG project in the world, and the first review of an LNG project in California. It is critical that we ensure a responsible decision-making process. A suspension of the Deepwater Port Act timeline is clearly warranted to guarantee the public and key decision makers have sufficient time to collect information and provide input on the factors that should be considered as part of the DEIS.

Thank you for your consideration of this request.

Sincerely,

LOIS CAPPS
Member of Congress

cc: Cy Oggins, California State Lands Commission
Lieutenant Ken Kusano, U.S. Coast Guard

PRINTED ON RECYCLED PAPER

F013-1

All deepwater port applications fall under the authority of the Deepwater Port Act, which requires that a decision on the application be made within 330 days of the publication of the Notice of Application in the Federal Register. The Notice of Application for the Cabrillo Port Project was published in the Federal Register on January 27, 2004. Although the comment period (53 days) could not be extended at that time, a Revised Draft EIR was recirculated in March 2006 under the CEQA for an additional public review period of 60 days. Section 1.4.1 contains additional information on this topic.

Section 1.5 contains information on opportunities for public comment. After the MARAD final license hearing, the public will have 45 days to comment on the Final EIS/EIR and the license application. The Federal and State agencies will have an additional 45 days to provide comments to the MARAD Administrator. The Administrator must issue the Record of Decision within 90 days after the final license hearing. The CSLC will hold a hearing to certify the EIR and make the decision whether to grant a lease. The California Coastal Commission will also hold a hearing. Comments received will be evaluated before any final decision is made regarding the proposed Project.

F013-2

Sections 4.2.4, 4.2.7.3 and 4.2.8.2 identify agencies with the authority and responsibility for safety standards, design reviews, and compliance inspections. Section 2.1 and Appendix C3-2 identify applicable safety standards.

F013-1

F013-2

F013-3

F013-4

F013-5

F013-6

The lead agencies directed preparation of the Independent Risk Assessment (IRA), and the U.S. Department of Energy's Sandia National Laboratories independently reviewed it, as discussed in Section 4.2 and Appendix C. Section 4.2.7.6 and the IRA (Appendix C1) discuss the models and assumptions used and the verification process. Sandia National Laboratories (Appendix C2) concluded that the models used were appropriate and produced valid results.

The IRA evaluates the consequences of a potential vapor cloud (flash) fire, as discussed in Section 4.2.7.6 and the IRA (Appendix C1). The IRA determined that the consequences of the worst credible accident involving a vapor cloud fire would be more than 5.7 NM from shore at the closest point, as summarized in Table 4.2-1. Figure 2.1-2, Consequence Distances Surrounding the FSRU Location for Worst Credible Events, depicts the maximum area from the FSRU in any direction that could be affected in the event of an accident. The shape and direction of the affected area

within the circle depicted in Figure 2.1-2 would depend on wind conditions and would be more like a cone than a circle, but would not reach the shoreline.

Section 4.6.4 contains information on potential air quality impacts and mitigation measures to address impacts. Appendices G1 through G8 contain additional supporting air quality evaluations. Section 4.18.4 contains information on the Project's potential impacts on marine water quality. Sections 4.7.4 and 4.8.4 discuss the Project's potential effects on the marine and terrestrial environments, including coastal wetlands. Section 4.14.4 contains information on potential noise and vibration impacts. Section 4.16.4 contains information on potential socioeconomic impacts, including impacts on recreational and commercial fishing. Section 4.4.4 and Appendix F contain information on the visual aspects of the Project, potential aesthetic impacts, and mitigation measures to address impacts. Section 4.15.4 contains information on potential impacts on recreational resources. Section 4.3.2 contains information on international treaties and standards; national laws/regulations; and local, port, or area-specific rules in place to prevent vessel collisions, groundings, and other accidents; allow for safe operations at port facilities; provide for the security of the United States; protect the environment; promote safety; and allow enforcement of other applicable laws. Impacts MT-1, MT-2, and MT-3 in Section 4.3.4 contain information on impacts, including potential vessel collisions, from an increase in maritime traffic and congestion due to Project construction and operation and the presence of the FSRU and LNG carriers, and mitigation measures to address impacts.

F013-3

Sections 1.2.2, 1.2.3, 1.2.4, 3.3.1, 3.3.2, and 4.10.1.3 contain information on the need for natural gas, the role and status of energy conservation and renewable energy sources, and the California Energy Action Plan.

Sections 3.3.1 and 3.3.2 address conservation and renewable energy sources, within the context of the California Energy Commission's 2005 Integrated Energy Report and other State and Federal energy reports, as alternatives to replace additional supplies of natural gas.

F013-4

Executive Order 12114, Environmental Effects Abroad of Major Federal Actions, requires Federal agencies to consider the potential environmental effects of major Federal actions that could significantly affect the global commons outside the jurisdiction of

any nation. Executive Order 12114 is not applicable to the extraction and development of natural gas in foreign countries.

An evaluation of the Project's environmental effects abroad must also be viewed within the context of section 15040 of the State CEQA Guidelines, which specifically defines and correspondingly limits the authority provided to State and local agencies under the CEQA.

The Applicant has stated that the source of the natural gas for this Project would be either Australia, Malaysia, or Indonesia. As these countries are sovereign nations, the Applicant would be required to comply with those countries' applicable environmental laws and regulations pertaining to the extraction and development of natural gas fields as well as those pertaining to the liquefaction and transfer of LNG to LNG carriers. Consideration of the Applicant's compliance with a foreign nation's applicable laws and regulations is beyond the scope of this EIS/EIR.

The Applicant has indicated that the Scarborough natural gas field in the state of Western Australia could be a potential source of natural gas for the Project. In May 2005, the Honourable Ian Macfarlane, the Australian Federal Minister for Industry, Tourism and Resources, stated, "Development of the Scarborough Field and related support facilities must be carried out in accordance with applicable laws and regulations of both the Australian Government (federal) and the State Government in Western Australia. Any activities will be subject to assessment and approvals under the applicable environmental legislative regimes. These include, among others, the Commonwealth Environment Protection and Biodiversity Conservation (EPBC) Act 1999, governing matters of national environmental significance, and, under State legislation, the Western Australian Environmental Protection Act 1986. The objectives of the Commonwealth's environmental regulatory regimes are to provide for the protection of the environment and ensure that any petroleum activity is carried out in a way that is consistent with the principles of ecologically sustainable development." (Appendix L contains a copy of this letter.)

Section 1.3 has been revised to include information on Indonesian and Malaysian environmental requirements that would regulate impacts related to producing and exporting natural gas. All three countries have existing LNG liquefaction facilities.

F013-5

Section 1.1.1 contains information on the process used by the Deepwater Port Act (DWPA) of 1974, as amended, which

establishes a licensing system for ownership, construction and operation of deepwater port (DWP) facilities. As discussed, the role of the Maritime Administration (MARAD) is to balance the Congressionally imposed mandates (33 U.S.C. 1501) of the DWPA, including those to protect the environment; the interests of the United States and those of adjacent coastal states in the location, construction, and operation of deepwater ports; and the interests of adjacent coastal states concerning the right to regulate growth, determine land use, and otherwise protect the environment in accordance with law.

At the same time, the California State Lands Commission (CSLC) is reviewing the application to ultimately decide whether to grant the Applicant a lease to cross State sovereign lands. As described in Section 1.2.1, "[t]he CSLC authorizes leasing of State lands to qualified applicants based on what it deems to be in the best interest of the State in compliance with the [California Environmental Quality Act]."

Section 1.1.2 contains information on the Governor of California's role in DWP licensing. As discussed, MARAD may not issue a license without the approval of the Governor of the adjacent coastal state (33 U.S.C. 1503(c)(8)). Section 1.1.3 contains information on the role of the U.S. Environmental Protection Agency (USEPA): "[t]he Port must meet all Federal and State requirements and is required to obtain air and water discharge permits from the USEPA." Section 1.2.1 contains additional information on Federal and State responsibilities. Section 1.1.4 contains information on the role of the CSLC to consider whether or not to grant a lease of State lands for the subsea pipelines. The lease may also include conditions relating to those parts of the Project not located on the lease premises. As described in Section 1.3.1, one of the main purposes of the EIS/EIR for MARAD is to "(f)acilitate a determination of whether the Applicant has demonstrated that the DWP would be located, constructed, and operated in a manner that represents the best available technology necessary to prevent or minimize any adverse impacts on the marine environment."

The USEPA, the U.S. Department of Commerce, including NOAA's National Marine Fisheries Service (NMFS or NOAA Fisheries Service), and the U.S. Department of the Interior, including the Minerals Management Service and the U.S. Fish and Wildlife Service, are cooperating Federal agencies.

As discussed in Section 1.3.2, for significant impacts, the CSLC must adopt a Statement of Overriding Considerations to approve the Project if the specific economic, legal, social, technological, or

other benefits of a proposed project outweigh the unavoidable adverse environmental effects (State CEQA Guidelines section 15093(a)). After the CSLC's decision, other State and local agencies may take actions on the Project, i.e., on related permits or necessary approvals. These agencies include the California Public Utilities Commission, the California Coastal Commission, the California Department of Fish and Game, the California Air Resources Board, the Los Angeles Regional Water Quality Control Board, the California Department of Transportation, the City of Oxnard and/or Ventura County (for the onshore part of the Project within the coastal zone), and local air quality control districts such as the Ventura County Air Pollution Control District and the South Coast Air Quality Management District. Section 1.4.2 contains information on the changes to the proposed Project that have been made during the environmental review process.

Section 1.5 contains information on opportunities for public comment. After the MARAD final license hearing, the public will have 45 days to comment on the Final EIS/EIR and the license application. The Federal and State agencies will have an additional 45 days to provide comments to the MARAD Administrator. The Administrator must issue the Record of Decision within 90 days after the final license hearing. The CSLC will hold a hearing to certify the EIR and make the decision whether to grant a lease. The California Coastal Commission will also hold a hearing. Comments received will be evaluated before any final decision is made regarding the proposed Project.

California Senate Bill 426 (Simitian), which would have created a ranking process for different LNG projects, was re-referred to the California Assembly Committee on Utilities and Commerce on August 24, 2006, which ended the consideration of the bill during the 2005-06 Legislative Session.

F013-6

Your statement is included in the public record and will be taken into account by decision-makers when they consider the proposed Project.



Congress of the United States
House of Representatives

November 5, 2004

Commandant Thomas H. Collins
U.S. Coast Guard
2100 Second Street, S.W.
Washington, D.C. 20593

Dear Commandant Collins:

I am writing to respectfully request a 60-day extension to the comment period on the Cabrillo Port Liquefied Natural Gas (LNG) Deepwater Port Draft Environmental Impact Statement (DEIS) that appeared in the Federal Register on November 5, 2004. The comment period is scheduled to expire on Monday, December 20.

Because of the complex technical issues presented in the DEIS, an extension to the comment period is necessary in order for the public to completely review the 1,234 page draft, consider any additional information that may come forward and provide your office with detailed comments on the impacts of this proposal. Additionally, ratepayers and regulators must be given an extended period of time to thoroughly evaluate our region's plan for LNG in a public manner. Preferential treatment should not be given to LNG without first determining the fundamental question of need, while fully considering security consequences, environmental impacts, environmental justice and the state's available alternatives.

I cannot overemphasize the need for sound decision-making and ensuring the public has the full ability to be involved. California has not yet fully recovered from an electricity deregulation plan that was inadequately considered prior to adoption. Our state certainly cannot afford to make energy decisions again without the utmost care.

I strongly encourage you to act deliberatively on this matter based on a thorough public record in light of the California's goals of environmental protection and energy diversity. Extending the comment period is an important step towards that goal. I look forward to working with you and other stakeholders to develop a comprehensive proposal that protects California's economic interests and coastal and ocean resources. Thank you for your consideration of this request.

Sincerely,

LOIS CAPPS
Member of Congress

cc: Cy Oggins, California State Lands Commission
Lieutenant Ken Kusano, U.S. Coast Guard

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2004/F014

F014-1

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F014-2

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F014-3

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